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T. GRIMES
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TERRY GODDARD
The Attorney General
Firm No. 14000

Christopher R. Houk
State Bar No. 020843
Assistant Attorney General
Civil Rights Division
1275 W. Washington St.
Phoenix, Arizona 85007
Telephone: (602) 542-8606
Facsimile: (602) 542-8899
civilrights@azag.gov
Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA ex rel. TERRY
GODDARD, the Attorney General, and THE
CIVIL RIGHTS DIVISION OF THE
ARIZONA DEPARTMENT OF LAW,

Plaintiff,

vs.

DHL EXPRESS (USA), INC., a foreign
corporation,

Defendant.

No. CV2006-009752

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

(Nonclassified Civil)

Plaintiff, by and through its attorneys undersigned, alleges and states, as follows:

INTRODUCTION

This is an action under the Arizona Civil Rights Act ("ACRA"), A.R.S. § 41-1401, *et seq.*, to correct unlawful employment practices related to sex and retaliation, to provide appropriate relief to aggrieved persons, and to vindicate the public interest.

Specifically, this matter is brought to redress the injury sustained by Jill Shumway ("Ms. Shumway") who was unlawfully discriminated against by Defendant.

JURISDICTION AND VENUE

1. This court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).

2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401.

PARTIES

3. Plaintiff Arizona Civil Rights Division of the Arizona Department of Law ("the Division") is an administrative agency of the State of Arizona established by A.R.S. § 41-1401 to enforce the provisions of the ACRA.

4. The Division brings this action on its own behalf and on behalf of Ms. Shumway, an aggrieved person, who is female.

5. Defendant is a foreign corporation authorized and doing business in the State of Arizona and is in good standing.

6. At all relevant times, Ms. Shumway was an employee of Defendant within the meaning of A.R.S. § 41-1461(3).

7. Upon information and belief, at all relevant times, Defendant is an employer within the meaning of A.R.S. § 41-1461(4).

8. Defendant is legally responsible for the acts or omissions giving rise to this cause of action and are legally and proximately responsible for damages as alleged pursuant to A.R.S. § 41-1481.

STATEMENT OF FACTS

9. Upon information and belief, in or around August 2002, Ms. Shumway began working for Defendant as a Sales Associate.

10. Starting in or around March 2003, Ms. Shumway became a Sales Representative and was paid approximately \$37,000.

11. In or around July 2004, Defendant hired Greg Powers and Patrick Van Den Berg.

1 12. Mr. Powers and Mr. Van Den Berg were hired at a base salary of
2 approximately \$47,500.

3 13. Mr. Powers and Mr. Van Den Berg were Account Representatives who
4 had comparable education and experience to Ms. Shumway.

5 14. Ms. Shumway brought the issue of the difference in salary to her
6 supervisor Brian Cooper.

7 15. Mr. Cooper did not resolve the issue of the difference in salary in a
8 manner that was satisfactory to Ms. Shumway.

9 16. Subsequently, Ms. Shumway filed a complaint of discrimination with
10 Defendant's Human Resources.

11 17. Defendant later raised Ms. Shumway's salary by approximately \$5,500.

12 18. However, raising Ms. Shumway's salary by approximately \$5,500 did not
13 bring Ms. Shumway to parity with Mr. Powers and Mr. Van Den Berg.

14 19. In addition, Ms. Shumway's salary increase was not made retroactive to
15 the date of the hire of Mr. Powers and Mr. Van Den Berg.

16 20. Following Ms. Shumway's filing of the complaint of discrimination with
17 Defendant's Human Resources, Ms. Shumway successfully closed a major deal with
18 one of the accounts on which she had been working.

19 21. At the time that Ms. Shumway successfully closed the major deal, Ms.
20 Shumway was the only salesperson working for Defendant who was responsible for
21 selling to or maintaining the relationship with the decision maker at that account's
22 corporate headquarters.

23 22. Defendant's 2004 and 2005 Field Sales Compensation policy states that
24 the salesperson responsible for selling to or maintaining the relationship with the
25 decision maker at corporate headquarters is entitled to a "controlled credit" for both
26 the revenue generated in their territory and the revenue generated through the
27 customer's locations out of other territories.

1 23. Following Ms. Shumway's filing of the complaint of discrimination with
2 Defendant's Human Resources, Defendant removed the controlled credit account
3 number from Ms. Shumway in connection with the major deal she had closed.

4 24. Following Ms. Shumway's filing of the complaint of discrimination with
5 Defendant's Human Resources, Defendant transferred the controlled credit account
6 number for the major account on which Ms. Shumway was working to a National
7 Account Manager for Defendant.

8 25. The National Account Manager did not have any contact with the
9 decision maker's corporate headquarters for the major account on which Ms.
10 Shumway was working.

11 26. On or about November 5, 2005 Ms. Shumway resigned.

12 27. Ms. Shumway filed a timely charge of employment discrimination with
13 the Division.

14 28. On or about June 1, 2006, the Division issued a Reasonable Cause
15 Determination.

16 29. The Division found that reasonable cause existed to believe that
17 Defendant violated the ACRA to the detriment of Ms. Shumway by discriminating
18 against her because of her sex in violation of A.R.S. § 41-1463(B)(1) and by
19 retaliating against her in violation of A.R.S. § 41-1464(A) .

20 30. The Division has or shall attempt to eliminate the unlawful practices
21 alleged in the Reasonable Cause Determination and to effect voluntary compliance
22 with the ACRA through conciliation pursuant to A.R.S. § 41-1481(D) for a period of
23 at least 30 days.

24 31. Since the issuance of the reasonable cause finding by the Division, the
25 parties to the above-referenced administrative complaint have not entered into a
26 Conciliation Agreement.

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1 practice which is an unlawful employment practice under the ACRA.

2 39. Ms. Shumway opposed Defendant's conduct which she reasonably
3 perceived to be sex discrimination, prohibited by A.R.S. § 41-1463(B)(1), by filing a
4 complaint with Defendant's Human Resources.

5 40. Defendant engaged in unlawful retaliation in violation of A.R.S. § 41-
6 1464(A) by discriminating against Ms. Shumway for filing a complaint of
7 discrimination with Human Resources by taking away the controlled credit account
8 number from Ms. Shumway in connection with the major account on which Ms.
9 Shumway was working.

10 41. As a result of Defendant's unlawful discrimination, Ms. Shumway
11 suffered monetary damages for which she should be compensated pursuant to A.R.S. §
12 41-1481(G).

13 42. Further, as a result of Defendant's unlawful retaliation, Plaintiff is
14 entitled to injunctive relief under A.R.S. § 41-1481(G).

15
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff requests that this Court:

18 A. Enter a judgment on behalf of Plaintiff, finding that Defendant unlawfully
19 discriminated against Ms. Shumway in violation of A.R.S. § 41-1463(B)(1).

20 B. Enter a judgment on behalf of Plaintiff, finding that Defendant unlawfully
21 discriminated against Ms. Shumway in violation of A.R.S. § 41-1464(A).

22 C. Enjoin Defendant, its successors, assigns, and all persons in active concert
23 or participation with Defendant, from engaging in any employment practice involving
24 discrimination on the basis of sex or retaliation.

25 D. Grant judgment requiring Defendant to pay to Ms. Shumway appropriate
26 monetary relief, including back pay, in an amount to be determined at trial, including
27 prejudgment interest.

1 E. Order any affirmative relief as the Court deems necessary and proper in the
2 public interest.

3 F. Order Defendant to institute and carry out policies, practices and programs
4 which provide equal employment opportunities for all employees of Defendant, and
5 which eradicate the effects of its present unlawful employment practices, including but
6 not limited to policy changes and training.

7 G. Order the Division to monitor Defendant's compliance with the Arizona
8 Civil Rights Act and order Defendant to pay a reasonable amount for such monitoring.

9 H. Award the Division its costs incurred in bringing this action.

10 I. Grant such further relief as the Court deems necessary and proper in the
11 public interest.

12
13 DATED this 29th day of June 2006.

14 TERRY GODDARD
15 Attorney General

16 By Christopher R. Houk
17 Christopher R. Houk
18 Assistant Attorney General
19 Civil Rights Division
20 Attorneys for Plaintiff

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